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BUREAU OF MEDICINE AND SURGERY
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IN REPLY REFER TO

6320

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22 Sep 21

From: Chief, Bureau of Medicine and Surgery

To: Deputy Chief of Naval Operations, Manpower, Personnel, Training, and Education (N1)

Subj: DISEASES TARGETED WITH MANDATORY VACCINATIONS FOR UNITED STATES NAVY ACTIVE DUTY AND RESERVE PERSONNEL

1. Subject matter experts at the Bureau of Medicine and Surgery have compiled the below facts on certain mandatory vaccines for United States (U.S.) Navy Active Duty and Reserve personnel. The information below provides some of the scientific and medical rationale for the vaccine requirements for vaccine-preventable diseases that would otherwise create risk to the readiness of the Force.

2. Coronavirus Disease 2019 (COVID-19)

a. Means of infection and infectivity. Person-to-person transmission via respiratory fluids, composed mainly of respiratory droplets and aerosol particles. Basic reproduction numbers (i.e., the number of people who become ill due to exposure to a single case) are estimated to be 2.8 for the original strain, 4-5 for the Alpha variant, and 5-8 for the Delta variant. In other words, every case of Delta variant COVID-19 can infect 5-8 people if effective countermeasures are not employed.

b. Disease's specific harm to health. COVID-19 symptoms are extremely unpredictable, and range from non-existent (asymptomatic) to death. The most common symptoms are: fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, loss of taste or smell, sore throat, congestion, nausea or vomiting, and diarrhea. These more minor symptoms result in clinic visits, time off work, reduced productivity, possible temporary incapacitation (requiring bed rest). Most serious cases may require hospitalization, the need for oxygen support, and mechanical ventilation. Between 17 December 2020 and 31 August 2021, six Sailors and one Marine have died due to COVID-19; none of them were fully immunized.

(1) The risk of complications from COVID-19 illness is significant. A recent Center for Disease Control and Prevention (CDC) report showed COVID-19 patients had nearly 16 times the risk for myocarditis compared with patients who did not have COVID-19, and this risk was higher in younger age groups.

(2) In addition, there is a significant risk of persistent COVID symptoms after recovery from acute illness, or "long COVID." A recent study found that in patients who had recovered from COVID-19, 87.4% reported persistence of at least one symptom, particularly fatigue and

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dyspnea at an average of 60 days after symptoms onset. Another found that nearly 2/3 of people hospitalized with COVID-19 still had symptoms 6 months later.

c. Treatment required and level of medical treatment facility capable of delivering that treatment. While mild cases may only require isolation and routine symptomatic care, severe cases may rapidly require intensive resources (Role 3 hospital with Intensive Care Unit (ICU) level care and mechanical ventilation) that are not routinely available in a deployed setting. A recent study of over 43,000 COVID-positive patients in England showed the rate of hospitalization within 14 days of testing was 2.2% for the Alpha variant and 2.3% for the Delta variant (74% were unvaccinated).

d. Efficacy/effectiveness of available vaccine(s). In large phase III trials, the Food and Drug Administration (FDA) approved COVID-19 vaccine was shown to have over 94% efficacy at preventing symptomatic COVID-19. For the same vaccine, against the Delta variant in a real world setting, studies show 88% effectiveness against symptomatic disease, to include hospitalization and death. Nationally in the United States, per the CDC, from January through August 2021, the unvaccinated comprised over 99% of all hospitalized COVID patients (over 1.6 million) as well as over 99% of all COVID-19 deaths (over 264,000). There have been zero COVID-19 deaths of Sailors or Marines among those fully immunized, and zero deaths of Sailors or Marines due to vaccination administration.

e. Likelihood of infection if unvaccinated. In a recent (24 Aug 2021) CDC report of over 43,000 SARS-CoV-2 infections in Los Angeles County, California (population approx. 9.6M), over 71% of the infections were unvaccinated and over 85% of hospitalizations were unvaccinated. The same study reported infection and hospitalization rates among unvaccinated persons were 4.9 times and 29.2 times the rates of those for fully vaccinated people, respectively. According to current surveillance data, nearly 87% of hospitalized Department of the Navy (DON) Active Duty COVID-19 cases since 17 December 2020 are among unvaccinated service members. For DON Service members who had COVID-19 since December 2020, surveillance data indicates that hospitalization rates are approximately 500 per 100,000 cases, which is substantially higher than for influenza (see paragraph 2b).

f. Other methods of prevention. For diseases transmitted by respiratory droplets and aerosol particles such as COVID-19, the CDC recommends non-pharmaceutical interventions (NPI) in addition to vaccination. NPIs recommended by the CDC to avoid contracting or spreading COVID-19 have been categorized as either personal or community based. Personal interventions comprise respiratory hygiene (covering the mouth and nose during coughing and sneezing), avoiding touching the face, frequent hand washing, cleaning and disinfecting objects and surfaces that are frequently touched, avoiding sick people, and self-quarantine when a person feels unwell. Community-based actions include public education through a variety of communication strategies, social distancing (6 feet), wearing facemasks, ensuring adequate ventilation of indoor spaces, and restrictions on public gatherings.

g. Efficacy of non-pharmaceutical interventions. Despite the ability of NPIs to prevent respiratory virus transmission, there are very limited data available on their effectiveness at the individual level. Data on the effectiveness of NPIs implemented as community-wide mandates

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(where NPI impacts both source control and personal protection) would not be applicable at the individual level.

(1) Recent studies have shown efficacy of mask wearing to prevent COVID-19. During a COVID-19 outbreak on the *USS THEODORE ROOSEVELT*, persons who wore masks experienced a 70% lower risk of testing positive for SARS-CoV-2 infection. Similar reductions have been reported in case contact investigations when contacts were masked and in household clusters in which household members were masked.

(2) However, in order to be effective, NPI must be implemented rigorously and continuously, and breaches in implementation are common. This is particularly true in communal environments such as aboard ships, in barracks, or in field situations; high rates of transmission have been documented in schools and household settings. One study during a recent mask mandate found that 90% of 5,893 individuals were observed not wearing a mask or not wearing it correctly, despite 75.9% of those individuals self-reporting always wearing a mask in public.

(3) Similarly, NPI such as masks provide measures of community protection, as described above, only while they are in use. Because the scientific and medical communities predict that SARS-CoV-2 will remain in global circulation as an endemic virus, the risk to the Force associated with COVID-19 in unvaccinated personnel may exist in perpetuity.

h. Scientific and Medical opinion on whether non-pharmaceutical interventions, alone or in concert, will be successful in meeting the compelling government interest. Any combination of NPI, in the absence of vaccination, are not likely to be effective at preventing COVID-19 outbreaks and their resulting impacts on the Navy's mission, especially in the setting of the highly contagious Delta variant. Unlike NPI, vaccination provides its full measure of protection in an enduring capacity, subject to potential boosters as recommended by the FDA. Vaccination is not subject to reductions in efficacy due to incomplete implementation as with NPI. For this reason, vaccination is significantly superior to NPI, and mask wearing, for preventing respiratory infections such as COVID-19, especially when only implemented at the individual level and not by the entire community.

3. Influenza

a. Means of infection. Person-to-person transmission via respiratory droplets. Basic reproduction numbers are estimated to be 0.9-2.1, which means, on average, a person infected with influenza will spread the virus to 1-2 other people, if no additional protective measures are in place.

b. Disease's specific harm to health. Typical symptoms include: fever, cough, sore throat, runny nose, muscle aches, headaches, fatigue, and vomiting / diarrhea (more common in children than adults). This results in clinic visits, time off work, reduced productivity, possible temporary incapacitation (requiring bed rest), and viral shedding, potentially infecting those who come in contact with the person. Hospitalization is rare among young adults with influenza, 3-7 per 100,000 age 18-49. The most common complications of influenza include secondary bacterial

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pneumonia, exacerbations of underlying respiratory conditions, otitis media, laryngotracheobronchitis, and bronchitis. Other complications may include primary pneumonia, encephalitis, aseptic meningitis, transverse myelitis, myocarditis, pericarditis, and Guillain-Barré syndrome.

c. Treatment required and level of medical treatment facility capable of delivering that treatment. For mild cases, rest at home /in quarters (in isolation), oral rehydration, antipyretics, and medications to target symptoms. For severe cases or those with complications, hospitalization (role 3 hospital, minimum) and ICU-level care with mechanical ventilation may be required.

d. Efficacy of available vaccine(s). Although influenza vaccine effectiveness is variable from season to season, since 2003, on average it has been 40% (range 10-60%). In addition, influenza vaccination has been shown in several studies to reduce severity of illness in people who get vaccinated but still get influenza illness. Influenza vaccination can also reduce transmission of the virus, thus protecting family members, co-workers, and other contacts from getting sick. Some of these contacts may be more vulnerable to serious influenza illness, like babies and young children, the elderly, and those with certain chronic health conditions.

e. Periodicity of vaccine boosters. Annual vaccination is required due to changes in the circulating viruses.

f. Likelihood of infection if unvaccinated. If unvaccinated for influenza, a Sailor will have a higher risk of contracting the disease and transmitting it to co-workers. According to the Centers for Disease Control and Prevention, the estimated annual incidence of influenza infection is approximately 8% (varying from 3% to 11%); approximately half of these cases would be symptomatic. However, outbreaks can be explosive, with attack rates exceeding 60% over periods as short as 10 days.

g. Other methods of prevention. For diseases transmitted by respiratory droplets such as influenza, the CDC recommends NPI in addition to vaccination. NPIs recommended by the CDC to avoid contracting or spreading respiratory infections have been categorized as either personal or community based. Personal interventions comprise respiratory hygiene (covering the mouth and nose during coughing and sneezing), avoiding touching the face, frequent hand washing, cleaning and disinfecting objects and surfaces that are frequently touched, avoiding sick people, and self-quarantine when a person feels unwell. Community-based actions include public education through a variety of communication strategies, social distancing (6 feet), ensuring adequate ventilation of indoor spaces, and restrictions on public gatherings. The use of masks may be appropriate in certain situations such as during periods of high community transmission and when an individual or contact is immunocompromised.

h. Efficacy of other methods of prevention. Despite the potential for NPIs to prevent respiratory virus transmission, there are very limited data available on their effectiveness at the individual level. Data on the effectiveness of NPIs implemented as community-wide mandates (where NPI impacts both source control and personal protection) would not be applicable at the individual level.

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(1) One published observational study out of Japan regarding influenza transmission showed the overall effectiveness of mask wearing was 8.6%, while handwashing showed a negative association (i.e., not protective). A meta-analysis of NPIs to prevent 2009 pandemic influenza infection showed a statistically significant protective effect for regular hand hygiene (38%) and a statistically non-significant protective effect for facemask use.

(2) In order to be effective, NPI must be implemented rigorously and continuously, and breaches in implementation are common. This is particularly true in communal environments such as aboard ships, in barracks, or in field situations; high rates of transmission have been documented in schools and household settings. One study during a recent mask mandate found that 90% of 5,893 individuals were observed not wearing a mask or not wearing it correctly, despite 75.9% of those individuals self-reporting always wearing a mask in public.

i. Medical opinion on whether other methods of prevention, alone or in concert, will be successful in meeting the compelling government interest. Any combination of NPI in the absence of vaccination are not likely to be effective at preventing influenza outbreaks and their resulting impact on the Navy's mission. Vaccination is not subject to reductions in efficacy due to incomplete implementation as with NPI. For this reason, and given the limited data available, it appears vaccination is significantly superior to NPI and mask wearing in particular, for preventing respiratory infections such as influenza, especially when only implemented at the individual level and not by the entire community.

4. Tetanus

a. Means of infection. The bacteria that causes tetanus, *C. tetani*, usually enters the body through a wound. In the presence of anaerobic conditions, the spores germinate. Toxins are produced and disseminated via blood and lymphatics.

b. Disease's specific harm to health. On the basis of clinical findings, three different forms of tetanus have been described.

(1) The most common type (more than 80% of reported cases) is generalized tetanus. The disease usually presents with a descending pattern. The first sign is trismus, or lockjaw, followed by stiffness of the neck, difficulty in swallowing, and rigidity of abdominal muscles. Other symptoms include elevated temperature, sweating, elevated blood pressure, and episodic rapid heart rate. Spasms may occur frequently and last for several minutes. Spasms continue for 3 to 4 weeks. Complete recovery may take months.

(2) Localized tetanus is an uncommon form of the disease in which patients have persistent contraction of muscles in the same anatomic area as the injury. These contractions may persist for many weeks before gradually subsiding. Localized tetanus may precede the onset of generalized tetanus, but is generally milder.

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(3) Cephalic tetanus is a rare form of the disease, occasionally occurring with otitis media in which clostridium tetani is present in the flora of the middle ear or following injuries to the head. There is involvement of the cranial nerves, especially in the facial area.

(4) Complications of tetanus are common. Laryngospasm or spasm of the muscles of respiration leads to interference with breathing. Fractures of the spine or long bones may result from sustained contractions and convulsions. Hyperactivity of the autonomic nervous system may lead to hypertension or an abnormal heart rhythm. Nosocomial infections are common because of prolonged hospitalization. Secondary infections may include sepsis from indwelling catheters, hospital-acquired pneumonias, and decubitus ulcers. Pulmonary embolism is particularly a problem in persons who use drugs and elderly patients. Aspiration pneumonia is a common late complication of tetanus, found in 50% to 70% of autopsied cases. In recent years, tetanus has been fatal in approximately 11% of reported cases.

c. Treatment required and level of medical treatment facility capable of delivering that treatment. Tetanus cases must be treated in a tertiary care facility with capability to provide long term ICU care and mechanical ventilation. Tetanus immune globulin (TIG) is recommended for persons with tetanus. Intravenous immune globulin (IVIG) contains tetanus antitoxin and may be used if TIG is not available. Because of the extreme potency of the toxin, tetanus disease does not result in tetanus immunity. Active immunization with tetanus toxoid should begin or continue as soon as the person's condition has stabilized.

d. Efficacy of available vaccine(s). Efficacy of the tetanus toxoid has never been studied in a vaccine trial. It can be inferred from protective antitoxin levels that a complete tetanus toxoid series has an efficacy of almost 100%. In the series of 233 cases from 2001–2008, only 7 cases (3%) had received a complete tetanus toxoid series with the last dose within the last 10 years.

e. Periodicity of vaccine boosters. Every 10 years.

f. Likelihood of infection if unvaccinated. While tetanus is rare in the US (averaging 31 cases per year for 2000-2007), nearly all of those cases were in unvaccinated or under-vaccinated individuals. Tetanus is much more common outside the US; in 2015 there were approximately 209,000 infections and about 59,000 deaths globally. As noted above, vaccine efficacy is high, with over 32 times the risk for unvaccinated persons compared to vaccinated.

g. Other methods of prevention. Usual safety measures can help prevent injuries resulting in cuts or puncture wounds from contaminated objects.

h. Efficacy of non-pharmaceutical interventions. At the individual level, such accidents are common and have proven difficult to prevent.

i. Medical opinion on whether other methods of prevention, alone or in concert, will be successful in meeting the compelling government interest. Safety measures alone will not likely be successful in preventing tetanus-prone wounds.

5. Diphtheria

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a. Means of infection. Transmission of diphtheria is most often person-to-person through respiratory droplets. Transmission may also occur from exposure to infected skin lesions or articles soiled with discharges from these lesions. The basic reproduction number is about 2.6.

b. Disease's specific harm to health. This may be a spectrum, but should include worst case scenarios and likelihood of worst case scenarios. Understand that co-morbidities play a significant role in these calculations, and our population tends to lack co-morbidities. The most common form of diphtheria results in a membranous pharyngitis and tonsillitis, with symptoms of fever, sore throat, malaise, and anorexia. While some patients may recover at this point without treatment, others may develop severe disease. The patient may appear quite toxic, but the fever is usually not high. Patients with severe disease may develop marked edema of the submandibular areas and the anterior neck along with lymphadenopathy, giving a characteristic "bull neck" appearance. If enough toxin is absorbed, the patient can develop severe prostration, pallor, rapid pulse, stupor, and coma. Death can occur within 6 to 10 days. Death occurs in 5-10% of diphtheria cases.

c. Treatment required and level of medical treatment facility capable of delivering that treatment. In addition to supportive care, as described for influenza and COVID-19, specific treatments include antitoxin and antibiotics. Diphtheria antitoxin, produced in horses, has been used for treatment of respiratory diphtheria in the United States since the 1890s. Diphtheria antitoxin is available only from CDC, through an Investigational New Drug (IND) protocol. Diphtheria antitoxin does not neutralize toxin that is already fixed to tissues, but it will neutralize circulating toxin and prevent progression of disease.

(1) After a provisional clinical diagnosis of respiratory diphtheria is made, appropriate specimens should be obtained for culture and the patient placed in isolation. Persons with suspected diphtheria should be promptly given diphtheria antitoxin and antibiotics in adequate dosage, without waiting for laboratory confirmation. Respiratory support and airway maintenance should also be provided as needed. Consultation on the use of and access to diphtheria antitoxin is available through the duty officer at CDC's Emergency Operations Center at 770-488-7100.

(2) In addition to diphtheria antitoxin, patients with respiratory diphtheria should also be treated with antibiotics. The disease is usually no longer contagious 48 hours after antibiotics have been given. Elimination of the organism should be documented by two consecutive negative cultures taken 24 hours apart, with the first specimen collected 24 hours after therapy is completed.

d. Efficacy of available vaccine(s). Diphtheria toxoid-containing vaccine has been estimated to have an efficacy of 97%.

e. Periodicity of vaccine boosters. Every 10 years in adults.

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f. Likelihood of infection if unvaccinated. Diphtheria is rare in the U.S. (14 cases were reported between 1996 and 2018), but it is much more common outside the U.S. where vaccination coverage is suboptimal (4,500 cases worldwide in 2015).

g. Other methods of prevention. For diseases transmitted by respiratory droplets such as diphtheria, the CDC recommends non-pharmaceutical interventions (NPI) in addition to vaccination, although widespread vaccination has all but eliminated disease incidence in the U.S. (ex. no cases in 2017 and 2018 according to World Health Organization, which largely eliminated the subsequent need for diphtheria-related NPI in practice). NPIs recommended by the CDC to avoid contracting or spreading respiratory infections have been categorized as either personal or community based. Personal interventions comprise respiratory hygiene (covering the mouth and nose during coughing and sneezing), avoiding touching the face, frequent hand washing, cleaning and disinfecting objects and surfaces that are frequently touched, avoiding sick people, and self-quarantine when a person feels unwell. Community-based actions include public education through a variety of communication strategies, social distancing (6 feet), ensuring adequate ventilation of indoor spaces, and restrictions on public gatherings. The use of masks may be appropriate in certain situations such as during periods of high community transmission and when an individual or contact is immunocompromised.

h. Efficacy of non-pharmaceutical interventions. While we are not aware of any studies evaluating the efficacy of NPI specifically for diphtheria, it is likely the effectiveness of most NPI would be similar to that for other infections transmitted by respiratory droplets.

(1) Despite the potential for NPIs to prevent respiratory disease transmission, there are very limited data available on their effectiveness at the individual level. Data on the effectiveness of NPIs implemented as community-wide mandates (where NPI impacts both source control and personal protection) would not be applicable at the individual level.

(2) In order to be effective, NPI must be implemented rigorously and continuously, and breaches in implementation are common. This particularly true in communal environments such as aboard ships, in barracks, or in field situations; high rates of transmission have been documented in schools and household settings. One study during a recent mask mandate found that 90% of 5,893 individuals were observed not wearing a mask or not wearing it correctly, despite 75.9% of those individuals self-reporting always wearing a mask in public.

i. Medical opinion on whether non-pharmaceutical interventions, alone or in concert, will be successful in meeting the compelling government interest. Any combination of NPI in the absence of vaccination are not likely to be effective at preventing diphtheria outbreaks and their resulting impact on the Navy's mission. Vaccination is not subject to reductions in efficacy due to incomplete implementation as with NPI. For this reason, and given the limited data available, it appears vaccination is significantly superior to NPI and mask wearing in particular, for preventing respiratory infections such as diphtheria, especially when only implemented at the individual level and not by the entire community.

6. Pertussis. Note: there is no pertussis vaccine preparation that does not contain tetanus and diphtheria toxoids.

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a. Means of infection. Transmission most commonly occurs person-to-person through contact with respiratory droplets, or by contact with airborne droplets of respiratory secretions. Transmission occurs less frequently by contact with an infected person's freshly contaminated articles. The basic reproduction number is about 5.5.

b. Disease's specific harm to health. The clinical course of pertussis is divided into three stages: catarrhal (with symptoms similar to the common cold lasting 1-2 weeks), paroxysmal (with more severe cough and paroxysms of numerous rapid coughs lasting 1-6 weeks), and convalescent (with gradual recovery over weeks to months). The most common complication and cause of death is secondary bacterial pneumonia, occurring in 13.2% of cases. Between 2000 and 2017, 307 deaths from pertussis were reported to CDC, mostly in children. Adults may also develop complications of pertussis, such as difficulty sleeping, urinary incontinence, pneumonia, rib fracture, syncope, and weight loss

c. Treatment required and level of medical treatment facility capable of delivering that treatment. Varying levels of supportive management are required, depending on severity of disease, as with influenza and COVID-19. Antibiotics are of some value if administered early (i.e., during the first 1 to 2 weeks of cough before coughing paroxysms begin).

d. Efficacy of available vaccine(s). Diphtheria, Tetanus, and Pertussis (DTaP) vaccine efficacy ranged from 80% to 85%, with overlapping confidence intervals.

e. Periodicity of vaccine boosters. Every 10 years.

f. Likelihood of infection if unvaccinated. Reported pertussis incidence has been gradually increasing in the U.S. since the late 1980s and early 1990s, and large epidemic peaks in disease have been observed since the mid-2000s. A total of 48,277 pertussis cases were reported in 2012, the largest number reported since the mid-1950s. Recent outbreaks of pertussis in the U.S. were due to low vaccination rates with large numbers of vaccine refusals (over 75% in one cluster) based on nonmedical reasons. The disease is more common outside the U.S.; an estimated 16.3 million people worldwide were infected in 2015, with 58,700 deaths.

g. Other methods of prevention, such as non-pharmaceutical interventions. For diseases transmitted by respiratory droplets such as pertussis, the CDC recommends non-pharmaceutical interventions (NPI) in addition to vaccination. NPIs recommended by the CDC to avoid contracting or spreading respiratory infections have been categorized as either personal or community based. Personal interventions comprise respiratory hygiene (covering the mouth and nose during coughing and sneezing), avoiding touching the face, frequent hand washing, cleaning and disinfecting objects and surfaces that are frequently touched, avoiding sick people, and self-quarantine when a person feels unwell. Community-based actions include public education through a variety of communication strategies, social distancing (6 feet), ensuring adequate ventilation of indoor spaces, and restrictions on public gatherings. The use of masks may be appropriate in certain situations such as during periods of high community transmission and when an individual or contact is immunocompromised.

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h. Efficacy of non-pharmaceutical interventions. While we are not aware of any studies evaluating the efficacy of NPI specifically for pertussis, it is likely the effectiveness of most NPI would be similar to that for other infections transmitted by respiratory droplets.

(1) Despite the potential for NPIs to prevent respiratory disease transmission, there are very limited data available on their effectiveness at the individual level. Data on the effectiveness of NPIs implemented as community-wide mandates (where NPI impacts both source control and personal protection) would not be applicable at the individual level.

(2) In order to be effective, NPI must be implemented rigorously and continuously, and breaches in implementation are common. This is particularly true in communal environments such as aboard ships, in barracks, or in field situations; high rates of transmission have been documented in schools and household settings. One study during a recent mask mandate found that 90% of 5,893 individuals were observed not wearing a mask or not wearing it correctly, despite 75.9% of those individuals self-reporting always wearing a mask in public.

i. Medical opinion on whether non-pharmaceutical interventions, alone or in concert, will be successful in meeting the compelling government interest. Any combination of NPI in the absence of vaccination are not likely to be effective at preventing pertussis outbreaks and their resulting impact on the Navy's mission. Vaccination is not subject to reductions in efficacy due to incomplete implementation as with NPI. For this reason, and given the limited data available, it appears vaccination is significantly superior to NPI and mask wearing in particular, for preventing respiratory infections such as pertussis, especially when only implemented at the individual level and not by the entire community.

7. My point of contact is [REDACTED] Preventive Medicine, who can be reached at [REDACTED].


B. L. GILLINGHAM

LII > U.S. Code > Title 42. THE PUBLIC HEALTH AND WELFARE
> Chapter 21B. RELIGIOUS FREEDOM RESTORATION
> **Section 2000bb–1. Free exercise of religion protected**

42 U.S. Code § 2000bb–1. Free exercise of religion protected

U.S. Code Notes

(a) IN GENERAL

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

- (1)** is in furtherance of a compelling governmental interest; and
- (2)** is the least restrictive means of furthering that compelling governmental interest.

(c) JUDICIAL RELIEF

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Pub. L. 103-141, § 3, Nov. 16, 1993, 107 Stat. 1488.)

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No.	Name	Rate	Rank	DESIG	Tasker #	Religion	Specifics	Duty Type	Requesting Command	Homeport	AC RC	Compelling Government Interest	Least Restrictive Means Analysis	Synopsis: Full Range of the facts	Synopsis: Full Range of the facts	Synopsis: Full Range of the facts	Synopsis: Full Range of the facts	Synopsis: Full Range of the facts	N13 Recommendation
9	Fletcher, Blaine	LTJG	O2		N131-3590	Christian	Immunizations	CONUS SHORE	TRARON 4	FL, PENSACOLA	AC	Health/Safety of the Force	All alternative measures for preventing spread of disease are insufficient due to unique circumstances inherent in naval service. Vaccination is the only viable option for achieving the compelling interest. Immunity is not instantaneous, and Sailors assigned to shore must be ready to deploy at a moment's notice.	LTJG Fletcher's request is based on his religious beliefs that he cannot "morally inject or utilize a vaccine that is complicit in abortion or uses mRNA technology to manipulate one's natural RNA." Member has included researched information, as well as a letter of support from his religious community. LTJG Fletcher is currently assigned to Training Squadron 4 for shore duty.	CO's endorsement makes no recommendation. ISIC endorsements recommends disapproval.	Chaplain states their beliefs are sincere.	BUMED recommends disapproval based on significant medical risks associated with granting such a waiver.	Legal states it is not legally objectionable to disapprove the request.	Recommend disapproval of the request due to the negative impact to military readiness and health of the force.



DoD INSTRUCTION 1300.17

RELIGIOUS LIBERTY IN THE MILITARY SERVICES

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
Effective:	September 1, 2020
Releasability:	Cleared for public release. Available on the Directives Division Website at https://www.esd.whs.mil/DD/ .
Reissues and Cancels:	DoD Instruction 1300.17, "Accommodation of Religious Practices Within the Military Services," February 10, 2009, as amended
Incorporates and Cancels:	Assistant Secretary of Defense for Force Management Policy Memorandum, "Sacramental Use of Peyote by Native American Service Members," April 25, 1997
Approved by:	Matthew P. Donovan, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02, this issuance:

- Establishes DoD policy in furtherance of the Free Exercise Clause of the First Amendment to the Constitution of the United States, recognizing that Service members have the right to observe the tenets of their religion, or to observe no religion at all.
- Establishes policy, assigns responsibilities, and provides procedures for the accommodation of religious practices of Service members.
- Establishes DoD policy on the accommodation of individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs), which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety.
- Establishes DoD policy providing that an expression of sincerely held beliefs (conscience, moral principles, or religious beliefs) may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.
- Implements requirements in Section 2000bb-1 of Title 42, United States Code (U.S.C), also known as "The Religious Freedom Restoration Act" (RFRA), and other laws applicable to the accommodation

of religious practices for DoD to provide, in accordance with the RFRA, that DoD Components will normally accommodate practices of a Service member based on a sincerely held religious belief.

- Requires DoD Components to oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to commanders, judge advocates, chaplains, recruiters, and other personnel as deemed appropriate by the Military Department or Military Service concerned.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. The definitions, policies, procedures, and assignments of responsibility prescribed in this issuance apply only to the accommodation of religious practices of Service members and in no other context.

1.2. POLICY.

a. Pursuant to the Free Exercise Clause of the First Amendment to the United States Constitution, Service members have the right to observe the tenets of their religion or to observe no religion at all, as provided in this issuance.

b. In accordance with Section 533(a)(1) of Public Law 112-239, as amended, the DoD Components will accommodate individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs) which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety. A Service member’s expression of such beliefs may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

c. In accordance with Section 533(b) of Public Law 112-239, as implemented by DoD Instruction 1304.28, no Service member may require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain, nor may any Service member discriminate or take any adverse personnel action on the basis of the refusal by the chaplain to comply with such requirements. This does not preclude disciplinary or administrative action for conduct by a Service member that is proscribed by Chapter 47 of Title 10, U.S.C. (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

d. Requests for religious accommodation will be analyzed under the standard in Paragraph 1.2.e. of this issuance using the process in Section 3 of this issuance. Accommodation of practices reflecting a Service member’s sincerely held conscience or moral principles will be governed by the policies of the DoD Component concerned.

e. DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety. In accordance with RFRA and the guidance in this issuance, DoD Components will normally accommodate practices of a Service member based on sincerely held religious belief.

Accommodation includes excusing a Service member from an otherwise applicable military policy, practice, or duty. In accordance with RFRA, if such a military policy, practice or duty substantially burdens a Service member's exercise of religion, accommodation can only be denied if:

- (1) The military policy, practice, or duty is in furtherance of a compelling governmental interest.
- (2) It is the least restrictive means of furthering that compelling governmental interest.

In applying the standard in Paragraphs 1.2.e.(1) and 1.2.e.(2), the burden of proof is placed upon the DoD Component, not the individual requesting the exemption.

f. Requests for the accommodation of religious practices will be reviewed and acted on as soon as possible, in accordance with this issuance and any DoD Component implementing guidance.

g. In accordance with provisions in Paragraphs 1.2.e and 1.2.f of this issuance, immediate commanders may resolve requests for accommodation of religious practices that do not require a waiver of DoD Component policies regarding the wearing of military uniforms, the wearing of religious apparel, or Service grooming, appearance, or body art standards.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)).

Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA):

- a. Is responsible for the administration of this issuance and for oversight of the implementation of the policies and procedures it establishes. Issues guidance to the DoD Components, as necessary, concerning the accommodation of religious practices and the implementation of the policies in this issuance.
- b. Acts on Military Department requests regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

2.2. DOD COMPONENT HEADS OTHER THAN THE SECRETARIES OF THE MILITARY DEPARTMENTS.

The DoD Component heads other than the Secretaries of the Military Departments:

- a. Ensure that requests for the accommodation of religious practices are processed or forwarded for review and action in accordance with this issuance and the implementing regulations and policies of the Military Department and Military Service to which the Service member belongs.
- b. Establish component regulations and policies to address the Service member's sincerely held conscience or moral principles in accordance with Paragraph 1.2.d. of this issuance.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS.

The Secretaries of the Military Departments:

- a. Adhere to all provisions of this issuance.
- b. Administer their respective programs and update existing regulations and policies, or develop and distribute new guidance, as appropriate, to implement the provisions of this issuance. Implementing issuances will, consistent with this issuance:
 - (1) Establish controls to ensure compliance with established procedures and processing timelines applicable to accommodation requests.
 - (2) Designate appropriate agency officials to review and act on the following:

(a) Requests for the accommodation of religious practices.

(b) Requests for an exemption to an otherwise applicable Military Department or Military Service policy in support of the requesting Service member's exercise of religion or furtherance of religious practices, including, but not limited to, requests pertaining to:

1. Religious apparel, including religious body art.

2. Grooming.

3. Medical practices, including DNA (deoxyribonucleic acid) specimen sampling and immunizations.

(c) Requests from a Service member's command to rescind a previously granted accommodation.

(3) Ensure, to the greatest extent practical, the consistent application of the policies and procedures prescribed by this issuance to similarly situated requests for the accommodation of religious practices throughout their respective Military Departments.

(4) Develop and implement a standards-based approach to the review of, and final action on, requests for the accommodation of religious practices to promote predictable outcomes for the same or similar requests. Such standards will be evidence-based and address commonly requested accommodations. The Military Departments and Military Services will issue or update applicable regulations and policies to authorize officers or officials at the lowest appropriate level of command or supervision to review and take final action on requests for accommodations covered by such standards, in accordance with this issuance. The absence of a standards-based approach to a requested accommodation will not, standing alone, serve as the basis for denying the request. Such a standards-based approach may include:

(a) A list of accommodations of religious practices that may, in ordinary circumstances, be granted to a member serving in a particular military occupational specialty, rating, specialty code, or duty assignment.

(b) Specific guidance on factors to be considered in making individual determinations with regard to a commonly requested or other accommodation of religious practices. Such factors may include those enumerated in Paragraph 3.2.d. of this issuance.

(c). Provide information about the policies and procedures governing the accommodation of religious practices and religious expression to prospective Service members, in accordance with Paragraph 3.2.i. of this issuance.

(d) Request, as appropriate, approval from the ASD(M&RA) regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

(5) Oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to:

- (a) Commanders.
- (b) Judge advocates.
- (c) Chaplains.
- (d) Recruiters.
- (e) Other personnel as deemed appropriate by the Military Department or Military Service concerned.

SECTION 3: PROCESSING ACCOMMODATION REQUESTS

3.1. ACCOMMODATION REQUESTS.

a. Service members submitting a request for accommodation will continue to comply with the policy, practice, or duty from which an accommodation has been requested unless and until informed that the request has been approved by the appropriate authority. Exceptions to this requirement may only be granted in exceptional circumstances, in accordance with the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

b. Requests for accommodation submitted by a cadet or midshipman enrolled at a Military Service Academy or in a Senior Reserve Officers' Training Corps program will be addressed in accordance with this issuance and the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

c. Nothing in this issuance precludes disciplinary or administrative action for conduct by a Service member that is prohibited by Chapter 47 of Title 10, U.S.C., also known as "The Uniform Code of Military Justice."

3.2. REVIEW OF AND ACTION ON REQUESTS FOR THE ACCOMMODATION OF RELIGIOUS PRACTICES.

a. Adjudication Authority.

Requests for the accommodation of religious practices that can be approved consistent with Military Department and Military Service regulations or policies, (e.g., current uniform and grooming standards) will be reviewed and acted on at the lowest appropriate level of command or supervision, as provided in the regulations and policies of the Military Department and Military Service concerned and in accordance with this issuance. Requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies will be forwarded to the Secretary of the Military Department concerned. Records concerning requests for accommodations will be maintained in accordance with DoD Instruction 5400.11.

b. Delegation.

The Secretary of a Military Department may delegate, in writing, the authority to act on requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies only as described in Paragraph 3.2.b.(1) through 3.2.b.(3).

(1) Department of the Army.

Delegation may be no lower than the Deputy Chief of Staff, G-1.

(2) Department of the Navy.

Delegation may be no lower than the Chief of Naval Personnel, or the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs, as appropriate.

(3) Department of the Air Force.

Delegation may be no lower than the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, or the Deputy Chief of Space Operations for Personnel and Logistics Services, as appropriate.

c. Review and Action Timelines.

Requests for the accommodation of religious practices will be reviewed and acted on as soon as practicable, and no later than the timelines provided in Table 1. Exceptions to this review and action timeline may be granted only in exceptional circumstances, as determined by the regulations and policies of the Military Department and Military Service concerned.

Table 1. Review and Action Timeline for Processing Accommodation Requests

Action to be Taken	For Requests Within the United States	For Requests Outside the United States or for Reserve Component Service Members Not on Active Duty
Action on Requests for Religious Accommodation that Can Be Approved Consistent with Existing Military Department or Military Service Regulations or Policies		
Review and final action completed and written notification to requesting Service member provided	No later than 30 business days from Service member submission	No later than 60 days from Service member submission
Action on Requests for Religious Accommodation that Require the Waiver of Otherwise Applicable Military Department or Military Service Regulations or Policies		
Written request for accommodation received by the Office of the Secretary concerned ¹	No later than 30 days from Service member submission to commander or supervisor	No later than 60 days from Service member submission to commander or supervisor
Review and final action completed and written notification to requesting Service member provided	No later than 60 days from receipt by the Office of the Secretary concerned. ¹ Must be provided to the Service member within 5 days of final action	
1. Unless authority is delegated to a subordinate official in accordance with Paragraph 3.2.b of this issuance.		

d. Factors for Consideration.

Officials charged with making recommendations or taking final action on a Service member's request for the accommodation of religious practices will review each request

individually, considering the full range of facts and circumstances relevant to the specific request. Factors to consider include:

(1) The compelling governmental interest in mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety.

(2) Alternate means available to address the requested accommodation. The means that is least restrictive to the requestor's religious practice and that does not impede a compelling governmental interest will be determinative.

e. Notice of Resolution.

A Service member will be promptly informed of the approval or disapproval of his or her request for accommodation in accordance with Table 1.

(1) A Service member's request for the accommodation of religious practices may be granted in whole or in part. The Service member will be informed in writing of any conditions or limitations placed on the grant that are necessary to meet the DoD's compelling governmental interest in mission accomplishment, such as, for example, conditions related to:

(a) Deployment;

(b) Health and safety issues relative to particular assignments or types of assignments; or

(c) Training events or ceremonial occasions that require a Service member to conform to military standards to protect health and safety, or maintain good order and discipline.

(2) A Service member whose request is granted in part will be informed, in writing, of the specific elements of that approval.

f. Administrative Appeal Process.

The regulations and policies of a Military Department or Military Service implementing this issuance will provide a process for Service members to appeal the denial of a request for accommodation of religious practices, or any condition on such accommodation. Appeals will be sent to an official in the chain of command or chain of supervision above the officer or official who took final action on the request. No further administrative appeal will be available for a decision made by the Secretary of the Military Department.

g. Accommodation Duration and Proposals to Rescind a Granted Accommodation.

An approved request for accommodation will remain in effect during follow-on duties, assignments, or locations, and for the duration of a Service member's military career, including after promotions, reenlistment or commissioning, unless and until rescinded in accordance with the requirements of this issuance.

(1) In accordance with this issuance and the implementing policies and regulations of the Military Department and Military Service concerned, an approved accommodation may be subject to review and rescission, in whole or in part, at any time, based upon a determination that the circumstances under which the grant of accommodation was approved have changed (e.g., deployment, new duties, or other material change in circumstances). The Military Department or Military Service concerned—not the individual Service member—bears the burden of initiating a proposal to review and rescind an accommodation previously granted.

(2) When a Military Department or Military Service initiates a proposal to review and rescind an accommodation previously granted, an appropriate officer or official will forward a written summary of the nature of the materially changed circumstances that require such review and repeal to the Service member concerned for comment.

(a) The Service member will be:

1. Allotted no fewer than 10 days to review and comment on the proposed rescission of the accommodation.

2. Afforded the opportunity to review and comment on any endorsements of this proposal from the chain of command.

3. Afforded, subject to security classification requirements, the opportunity to review and comment on any documents or attachments to the proposal or subsequent endorsements.

(b) Any comments submitted by the Service member will be forwarded for consideration by the appropriate official authorized to act on the matter, in accordance with this issuance.

(3) A proposal to review and rescind a previously approved accommodation must be acted on at a level of authority no lower than that at which the accommodation was granted, in accordance with this issuance and the regulations and policies of the Military Department and Military Service concerned implementing this issuance. The standard for repealing a previously granted accommodation, in whole or in part, is the same as the standard for denying a request for the accommodation of religious practices in the first place, and the same factors must be considered, as appropriate.

h. Accommodation Modification or Suspense Under Exigent Circumstances.

Under exigent circumstances and in furtherance of a compelling governmental interest due to operational necessity, when time is of the essence and no less restrictive means of religious accommodation are available, a commander at a level determined by the Military Department or Military Service concerned may temporarily modify or suspend accommodations granted, upon notice to the Service member concerned and without benefit of appeal. The level of this commander must be no lower than the officer exercising Summary Court-Martial Convening Authority over a Service member who has previously been granted an accommodation of religious practices.

(1) To the extent practicable, the commander concerned, if not a general officer or flag officer, or member of the senior executive service, will notify, in advance, the first general officer or flag officer, or member of the senior executive service, as appropriate, in the affected Service member's chain of command or supervision, of the commander's intent to modify or suspend a previously granted accommodation. When such advance notice is not practicable, the commander concerned will notify the appropriate general officer or flag officer, or member of the senior executive service, as appropriate, as soon as circumstances permit.

(2) The Service member concerned may be required to immediately comply with the modification or suspension of an accommodation, if circumstances so warrant.

(3) The modification or suspension of the accommodation will apply for only the minimum period required by the circumstances.

i. Pre-accession Procedures.

(1) Applicants to the Military Services will be informed of the policies and procedures for the accommodation of religious practices in accordance with this issuance, and as implemented by the Military Department or Military Service concerned. These applicants include individuals who apply for:

- (a) A commissioning program;
- (b) A warrant officer program;
- (c) Enlistment or entry in the Military Services;
- (d) Reenlistment (or reentry) in the Military Services;
- (e) Enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program (including Military Service Academy preparatory schools); or
- (f) The award of a scholarship or other benefit that requires a commitment to serve as a Service member.

(2) The Military Departments and Military Services will develop processes for the review and action on pre-accession requests for the accommodation of religious practices and establish those processes in appropriate regulations and policies. Such processes must provide applicants the opportunity to submit a request for accommodation of religious practices, and receive a final decision on that request, before participation in the commissioning program, warrant officer program, enlistment, reenlistment, enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program, or award of such scholarship or benefit. The review and processing of such requests must be consistent with this issuance.

3.3. REQUIRED PRINCIPLES AND RULES FOR MILITARY REGULATIONS AND POLICIES.

DoD Component regulations and policies must include the following principles and rules:

a. Worship practices, holy days, and Sabbath or similar religious observance requests will be accommodated to the extent possible, consistent with mission accomplishment and will normally not require a religious accommodation request.

b. A Service member's religious practices will be considered in acting on a request for separate rations. Accommodation requests for separate rations may be adjudicated at the command level.

c. A Service member's religious practices will be considered in acting on a request for exemption from required medical practices. Action on a request for medical exemption must be consistent with mission accomplishment, including consideration of potential medical risks to other persons comprising the unit or organization.

d. The following rules govern the wear of items of religious apparel:

(1) In accordance with Section 774 of Title 10, U.S.C., Service members may wear items of religious apparel while in uniform, except in circumstances in which wearing the item would interfere with the performance of the member's military duties or the item of apparel is not neat and conservative. The Military Departments and Military Services will prescribe regulations governing the wear of such items. Factors that may be considered in determining whether an item of religious apparel interferes with military duties include, but are not limited to, whether the item:

(a) Impairs the safe and effective operation of weapons, military equipment, or machinery.

(b) Poses a health or safety hazard to the Service member wearing the religious apparel or to others.

(c) Interferes with the wear or proper function of special or protective clothing or equipment (e.g., helmets, protective masks, wet suits).

(d) Otherwise impairs mission accomplishment.

(2) Religious items or articles not visible or apparent may be worn with the uniform, provided they do not interfere with the performance of the Service member's military duties, as described in Paragraph 3.3.d.(1) of this issuance, and do not interfere with the proper wear of any authorized article of the uniform.

(3) Under regulations and policies of the Military Department and Military Service concerned, religious headgear may be worn with the uniform whenever a military cap, hat, or other headgear is not prescribed. Religious headgear may also be worn underneath prescribed

military headgear, provided it does not interfere with the proper wear, function, or appearance of the headgear, as described in Paragraph 3.2.d.(1).

(4) Notwithstanding any other provision in this issuance, while conducting worship services and during the performance of rites and rituals associated with his or her religious faith, a chaplain may wear with the military uniform any required religious apparel or accouterments associated with the traditions or practices of his or her religious faith.

(5) In evaluating requests for the accommodation of religious practices related to body art, these factors will be among those considered:

(a) Whether the body art is neat and conservative.

(b) The location of the body art, including whether the body art is visible when the Service member is wearing the military uniform.

3.4. ADDITIONAL GUIDANCE REGARDING THE USE OF PEYOTE.

a. There are additional rules governing the use of peyote in religious practices. In accordance with Section 1996a of Title 42, U.S.C. (also known as the “American Indian Religious Freedom Act Amendments of 1994”), Service members who are members of Indian tribes as defined in that statute may use, possess, or transport the peyote cactus as a religious sacrament in connection with the bona fide practice of a traditional Indian religion, and will not be penalized or discriminated against on the basis of such use, possession, or transportation. Reasonable limitations on the use, possession, transportation, or distribution of peyote may be imposed to promote military readiness, promote safety, or comply with international law or laws of other countries. The Secretaries of the Military Departments will prescribe regulations authorizing the use, possession, or transportation of peyote cactus and imposing limitations on such use, possession, or transportation including, but not limited to, the following:

(1) Peyote will not be used on duty or within 24 hours before scheduled military duty.

(2) Peyote may be possessed in amulet form, not for ingestion, and such an amulet may be worn as an item of religious apparel subject to Military Service uniform regulations. Otherwise, peyote will not be used, possessed, distributed, or introduced aboard military vehicles, vessels, or aircraft or, except when permitted by the installation commander, on military installations.

(3) A Service member who has used peyote will promptly notify their commander upon return to duty after such use.

(a) The Secretary of the Military Department concerned may require pre-use notification by Service members performing designated duties when it is in the interest of military readiness or safety to notify commanders of a Service member’s intent to use peyote.

(b) Upon notification of use or intended use of peyote, the Service member will provide documentation verifying membership in an Indian tribe as defined by Section 1996a(c)(2) of Title 42, U.S.C.

(4) The establishment by the Secretary of a Military Department of limitations on the use, possession, or transportation of peyote cactus, in addition to those already listed in Paragraph 3.4. of this issuance, must be consistent with RFRA, the Free Exercise Clause of the First Amendment to the Constitution of the United States, any other applicable statutes such as the American Indian Religious Freedom Act Amendments of 1994, and this issuance. Any such additional limitations must be approved, in advance, by the ASD(M&RA). Before approving any additional limitation proposed by the Secretary of a Military Department, the ASD(M&RA) will consult with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice, pursuant to Section 1996a(b)(7) of Title 42, U.S.C.

b. Requests by Service members for the accommodation of a religious practice involving the use, possession, or transportation of any substance other than peyote, the use, possession, transportation, manufacturing, or distribution of which is prohibited by law or policy, will be forwarded to the Secretary of the Military Department concerned for resolution. Before taking final action on any such accommodation request, the Secretary of the Military Department concerned will notify the ASD(M&RA).

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
RFRA	Religious Freedom Restoration Act
U.S.C.	United States Code

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
compelling government interest	In the DoD, a military requirement that is essential to accomplishment of the military mission. In accordance with Paragraph 1.2.e. of this issuance, DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety.
neat and conservative	<p>In the context of the wear of a military uniform, items of religious apparel that:</p> <p>Are discreet, tidy, and not dissonant or showy in style, size, design, brightness, or color.</p> <p>Do not replace or interfere with the proper wear of any authorized article of the uniform.</p> <p>Are not temporarily or permanently affixed or appended to any authorized article of the uniform.</p>
pre-accession	The period of time before a prospective Service member's participation in a commissioning program, warrant officer program, enlistment (or entry), reenlistment (or reentry), or enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program.

TERM	DEFINITION
religious apparel	Articles of clothing, jewelry or other such accoutrements the wearing of which is part of the observance of the religious faith practiced by the Service member.
religious body art	Temporary or permanent tattoos, piercings through the skin or body parts, or other modifications to the body that are a part of a Service member's religious practice.
religious practice	An action, behavior, or course of conduct constituting individual expressions of religious beliefs, whether or not compelled by, or central to, the religion concerned.
substantial burden	<p>A governmental act is a substantial burden to a Service member's exercise of religion if it:</p> <ul style="list-style-type: none">Requires participation in an activity prohibited by a sincerely held religious belief;Prevents participation in conduct motivated by a sincerely held religious belief; orPlaces substantial pressure on a Service member to engage in conduct contrary to a sincerely held religious belief.

REFERENCES

DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008

DoD Instruction 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” June 11, 2004, as amended

DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019

Section 533 of Public Law 112-239, the “National Defense Authorization Act for Fiscal Year 2013,” December 18, 2012, as amended

United States Code, Title 10

United States Code, Title 42

United States Constitution



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 1730.8B CH-1
ASN (M&RA)/N097
28 March 2012

SECNAV INSTRUCTION 1730.8B CHANGE TRANSMITTAL 1

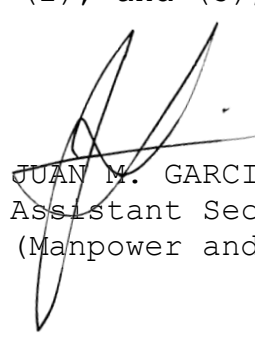
From: Secretary of the Navy

Subj: ACCOMMODATION OF RELIGIOUS PRACTICES

Encl: (1) Revised Page 3
(2) Revised Page 4
(3) Revised Page 8

1. Purpose. To transmit new pages 3, 4, and 8 of the basic instruction replacing obsolete language relative to dietary accommodation and clarifying the factors commanders consider when making determination to grant a request for religious accommodation thereby ensuring that commanders do not treat requests for religious accommodation as personal requests for general accommodation but afford such requests the proper consideration due their religious nature.

2. Action. Remove pages 3, 4, and 8 of the basic instruction and replace with enclosures (1), (2), and (3), respectively, of this change transmittal.


JUAN M. GARCIA III
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:

Electronic only, via Department of the Navy Issuances Web site:
<http://doni.daps.dla.mil/>



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 1730.8B
N097
02 October 2008

SECNAVINST 1730.8B

From: Secretary of the Navy

Subj: ACCOMMODATION OF RELIGIOUS PRACTICES

Ref: (a) DoD Directive 1300.17, of 3 Feb 88
(b) U.S. Navy Regulations, 1990
(c) DoD 7000.14-R, Vol. 7A, of Feb 02
(d) DoD Directive 5154.24, of 3 Oct 01
(e) Title 10, United States Code

1. Purpose. To provide policy and guidance for the accommodation of religious practices within the Department of the Navy (DON) under reference (a). The DON recognizes that religion can be as integral to a person's identity as one's race or sex. The DON promotes a culture of diversity, tolerance, and excellence by making every effort to accommodate religious practices absent a compelling operational reason to the contrary. During a service member's career in the DON, he or she will be exposed to a wide variety of religious expressions from both chaplains and other service members. It is DON policy to foster mutual respect for diverse religious expressions, which includes accommodating as many of them as possible at the command level. Chaplains are the Navy's only trained professional religious accommodators. Assisted by religious program specialists, they provide for and facilitate the religious needs of authorized personnel. The Chaplain Corps' capabilities are critical to the commander's ability to successfully meet the requirement for the free exercise of religion set forth in the U.S. Constitution.

2. Cancellation. SECNAVINST 1730.8A.

3. Applicability. The policies and procedures in this instruction apply solely to the accommodation of religious practices within the DON and no other context.

4. Definitions

a. Department of the Navy. The DON, for purposes of this instruction, includes applicants for entry to, and members of, the Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, as

well as midshipmen at the U.S. Naval Academy and in the Reserve Officer Training Corps, and officers and officer candidates in all officer accession programs.

b. Religious Observance. Religious observances include participating in worship services and following other doctrinal requirements on Sabbath and holy days.

c. Religious Dietary Observances. Religious dietary observances include doctrinal or traditional requirements on types of foodstuffs allowed or the means of food preparation.

d. Religious Apparel. Religious apparel is defined as articles of clothing worn as part of the doctrinal or traditional observance of the religious faith practiced by the service member. Hair and grooming practices required or observed by religious groups are not included within the meaning of religious apparel.

e. Religious Medical Practices. Religious medical practices include doctrinal or traditional objections to receiving immunizations and providing Deoxyribonucleic Acid (DNA) specimen samples.

5. Policy. DON policy is to accommodate the doctrinal or traditional observances of the religious faith practiced by individual members when these doctrines or observances will not have an adverse impact on military readiness, individual or unit readiness, unit cohesion, health, safety, discipline, or mission accomplishment.

a. Accommodation of a member's religious practices cannot be guaranteed at all times and is subject to military necessity. Determination of necessity rests entirely with the commanding officer.

b. The guidelines in this instruction shall be used in the exercise of command discretion concerning the accommodation of religious practices. Nothing in these guidelines, except as expressly provided herein, shall be interpreted to require a specific form of accommodation in individual circumstances.

c. All requests for accommodation that can be approved by the commanding officer shall be approved or denied, absent unusual circumstances, within 1 week of the date of request.

Requests that require approval from the headquarters level shall be approved or denied within 30 days of the date of request for cases arising in the United States, and within 60 days for all other cases. Exceptions to these deadlines shall be limited to unusual circumstances.

d. Any request for accommodation that is denied is subject to appeal as follows.

(1) The requesting member shall be informed by the commanding officer of the right to appeal the decision up the chain of command.

(2) Requests denied by the commanding officer shall be appealed to the next higher level of command. Subsequent appeals shall be made at successive levels of command up to and including the Chief of Naval Operations (CNO) or Commandant of the Marine Corps (CMC) as appropriate.

(3) The next level of command will either overturn or uphold the contested decision within 30 days of the date of appeal for cases arising in the United States, and within 60 days for all other cases. Absent unusual circumstances, exceptions to these deadlines shall be limited.

(4) Denied requests regarding the wear of religious apparel shall be appealed directly to the CNO or the CMC per reference (a). The CNO and CMC will provide an information copy of the approval or denial to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)).

(5) The decision of the CNO or CMC shall not be subject to appeal.

6. Religious observances shall be accommodated, except by reason of necessity, as provided in reference (b). In scheduling, commanders should be mindful of major religious observances.

7. Dietary Observance. Commanders afloat and ashore should accommodate religious dietary observances to the fullest possible extent within the limits and guidelines established by this policy. Commanders normally accommodate religious dietary observances through a standard core menu that supports many

religious dietary requirements, and or by issuing Meals Ready to Eat, Religious (MRE-R), or through other appropriate means. To the extent that health, safety, or readiness in the unit is not compromised, commanding officers should authorize individuals to provide their own supplemental food rations at sea or in the field environment to accommodate their religious dietary observances.

8. Immunizations. Immunization requirements may be waived when requested by the member based on religious objection.

a. The religious objection of the service member must be balanced against the medical risk to the member and the military unit, and military requirements such as alert status, deployment potential, and availability of the member for reassignment to units requiring full medical readiness. To provide for consistent application of these guidelines, immunization waivers will be decided by the Surgeon General of the Navy (CNO (N093)) or headquarters level designee. Individual requests shall be submitted to Chief, Bureau of Medicine and Surgery (MEDCOM-24), via the commanding officer and Deputy Chief of Naval Operations, Manpower, Training and Education (CNO (N1)) or CMC Deputy Chief of Staff for Manpower and Reserve Affairs (DCS (M&RA)), as appropriate.

b. Commanding officers may subsequently revoke waivers for service members at imminent risk of disease due to exposure or to conform to international health regulations incident to foreign travel or unit deployment. The guidance in paragraph 11e on irresolvable differences must be considered in such circumstances.

9. Deoxyribonucleic Acid (DNA) Specimen Sampling

a. Requests for waiver of the DNA specimen sample requirement will be decided by CNO (N1) or CMC (DCS (M&RA)). Individual requests shall be submitted to CNO (N1) or CMC (DCS (M&RA)), as appropriate, via the commanding officer.

b. When determining whether to grant a request for waiver based on religious medical practices, the five factors contained in paragraph 11c as supplemented by the following shall be considered:

(1) DNA analysis fulfills the military requirement of quickly and accurately identifying the remains of service members under reference (d). DNA analysis is not conducted on the specimen unless necessary for identification of remains or for other narrowly defined purposes. The specimen sample will be destroyed at the request of the member upon completion of service.

(2) The cumulative impact of repeated accommodations of a similar nature and previous treatment of similar requests may set a precedent that could adversely impact other Department of Defense (DoD) medical policies and programs, including mandatory pre-deployment processing, medical screening activities, Human Immunodeficiency Virus testing and medical surveillance program serum collection.

10. Uniforms

a. When approved by competent military authority, religious apparel not visible or otherwise apparent may be worn with the uniform, provided it does not interfere with the performance of the member's military duties or interfere with the proper wearing of any authorized article of the uniform.

b. When approved by competent military authority, visible items of religious apparel will be authorized for wear with the uniform, except when the item is not neat and conservative, its wearing will interfere with the performance of the member's military duties, or is specifically prohibited in subparagraphs 10d and 10e. In the context of the wearing of a military uniform, "neat and conservative" items of religious apparel are those that:

(1) Are discreet, tidy, and not dissonant or showy in style, size, design, brightness or color.

(2) Do not replace or interfere with the proper wearing of any authorized article of the uniform.

(3) Are not temporarily or permanently affixed or appended to any article of the uniform.

(4) Do not obscure the identity of the wearer or interfere with communication.

c. The standards in subparagraph 10b, and the prohibitions in subparagraphs 10d and 10e, are intended to serve as a basis for determining a service member's authorization to wear religious apparel with the uniform. Unless prohibited by subparagraph 10d or 10e, religious apparel shall be authorized.

d. Whether an item of religious apparel interferes with the performance of the service member's military duties depends on the characteristics of the item, the circumstances of its intended wear, and the particular nature of the member's duties. Factors in determining if an item of religious apparel interferes with the military duties include, but are not limited to, whether the item may:

(1) Impair the safe and effective operation of weapons, military equipment, or machinery.

(2) Pose a health or safety hazard to the wearer or others.

(3) Interfere with the wearing or proper functioning of special or protective clothing or equipment (e.g., helmets, flak jackets, flight suits, camouflage uniforms, gas masks, wet suits, and crash and rescue equipment).

(4) Otherwise impair the accomplishment of the military mission.

e. Visible items of religious apparel shall not be worn while wearing historical or ceremonial uniforms; participating in review formations, parades, honor or color guards and similar ceremonial details or functions.

f. Jewelry bearing religious inscriptions or otherwise indicating affiliation or belief may be worn subject to the same uniform regulations prescribed for jewelry that is not of a religious nature.

g. Chaplains may wear any religious apparel required by their religious organizations with the uniform while conducting public worship services and during the performance of rites and rituals distinct to their faith groups.

h. Service members may wear any required religious apparel distinct to their faith group with the uniform while in attendance at public worship services.

i. Subject to the guidelines in subparagraph 4d, and the limitations in subparagraphs 10b, 10d, and 10e, commanding officers shall approve individual requests for wearing visible religious apparel with the uniform in circumstances other than attendance at public worship services. Visible items of religious apparel may not be worn with the uniform until approved.

j. A member whose request to wear a visible item of religious apparel has been approved by their commanding officer must again request approval when reporting to a new command or when a new commanding officer reports.

11. Responsibilities

a. Members seeking religious accommodation must submit their request in writing through their chain of command to their commanding officer, commander, or as otherwise specified in this instruction.

b. Commanders will respond to requests for accommodation in a just and timely manner, supporting religious freedom and respect for religious diversity within the Sea Services.

c. Commanders and commanding officers shall approve requests for religious accommodation within the guidelines of this instruction. To promote standard procedures for the accommodation of religious practices, commanding officers shall consider the following factors:

(1) The importance of military requirements, including individual readiness, unit readiness, unit cohesion, health, safety, morale, discipline, and mission accomplishment.

(2) The religious importance of the accommodation to the requester.

(3) The cumulative impact of repeated accommodations of a similar nature.

(4) Alternative means available to meet the requested accommodation.

(5) Previous treatment of the same or similar requests, including treatment of similar requests made for other than religious reasons. Religious requests should be considered at least as favorably as non-religious requests. A request for religious accommodation should not be denied simply because a similar non religious request was denied.

d. When requests are precluded by military necessity, commanders should seek reasonable alternatives.

e. When requests for accommodation are not in the best interests of the unit but continued tension between the unit's requirements and the individual's religious beliefs is apparent, administrative action is authorized, including but not limited to: reassignment, reclassification, or separation consistent with Secretary of the Navy (SECNAV) and Service regulations.

f. Commanding officers shall report each decision to approve or deny a request for religious accommodation up the chain of command to CNO (N1) or CMC (DSC (M&RA)) as appropriate.

g. Nothing in this instruction precludes action under the Uniform Code of Military Justice in appropriate circumstances.

h. The Chief of Chaplains will annually report to the SECNAV, the CNO and the CMC on religious demographics and religious diversity in the DON.

i. The Chief of Chaplains will provide procedures for commanders to record and report their decisions regarding requests for accommodation.

12. Information and Education

a. The CNO and CMC shall provide DON policy on accommodation of individual religious practices and military requirements in paragraphs 5 and 5a of this instruction to applicants for commissioning, enlistment and reenlistment, and shall require the member's signature acknowledging the DON policy.

b. The CNO and CMC shall incorporate relevant materials on religious traditions, practices, policies, this instruction, and reference (e), in curriculum for command, judge advocate, chaplain and similar courses of instruction and orientation.

13. Action


a. ASN(M&RA) is responsible for overall policy control and program execution.

b. The CNO and CMC shall implement the policies and procedures in this instruction.

c. The CNO and CMC shall review Service regulations governing uniforms, food service, separate rations, immunizations, and DNA sampling and revise them as necessary in order to conform to this instruction within 90 days from the date of this instruction and provide copies of each such regulation revision to ASN(M&RA).

d. CNO (N1) and CMC (DCS (M&RA)) shall collect, maintain and make available to the Chief of Navy Chaplains (CNO (N097)) the data concerning religious diversity, religious demographics and statistics related to the approval and denial of requests for religious accommodation.

14. Records Management. Records created by this instruction, regardless of media and format, shall be managed in accordance with SECNAV Manual 5210.1.



Donald C. Winter

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<http://doni.daps.dla.mil/>



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

ACTION MEMO

FOR: ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)

FROM: VADM S. R. Van Buskirk, Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)

SUBJECT: United States Navy Religious Accommodation Process

- Mr. Secretary, request you grant authority for N1 to approve all religious accommodation requests. TAB B is a similar authorization granted to the Marine Corps on November 1, 2012.
- The Secretary of Defense directed the services to review and ensure sufficient clarity and specificity in religious accommodation processes; consistent with the Chairman of the Joint Chiefs of Staff (CJCS) and Service Chiefs' intent to ensure that appropriate levels exercise regulatory waiver authority, the U.S. Navy developed a process by which requests for religious accommodation (grooming or apparel, only) will be addressed in accordance with pertinent law, rules, regulations and instructions.
- The Navy religious accommodation process has a twofold purpose: first, to maintain the fighting capability of the Navy at the highest level; and second, to accommodate the religious practices of members where and when appropriate.
- Upon receipt of a request, DCNO (N1) will consider the totality of the request as well as precedence, approve or disapprove, in whole or in part, and send the decision, via the chain of command, to the requestor. The denial of a request is subject to review by the Chief of Naval Operations (CNO). The requestor, upon receipt of the DCNO (N1) decision, may appeal that decision to the CNO, whose decision is final.
- The process alters pre-existing practice, but maintains the service-level oversight twice determined necessary by the CJCS and Service Chiefs. This process provides appropriate and consistent accommodation determinations within the requirements of the pertinent instructions, regulations, and law, as recommended by OSD.
- I am working with the Chief of Chaplains and DC (M&RA) on a re-write of SECNAVINST 1730.8C that codifies this change at which time, this action memo is no longer required.

SUBJECT: United States Navy Religious Accommodation Process

RECOMMENDATION: Approve request by initialing below as appropriate:

Approve MB Disapprove _____

ATTACHMENTS: 46 Jun 13

As stated

COORDINATION: TAB C

Prepared By: LCDR Danielle DeFant, N131, (703)604-5053

MILPERSMAN 1730-020

IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS

Responsible Office	OPNAV (N131)	Phone:	DSN COM	664-5015 (703) 604-5015
MyNavy Career Center		Phone: Toll Free	1-833-330-MNCC (6622)	
		E-mail:	askmncc@navy.mil	
		MyNavy Portal:	https://my.navy.mil/	

References	(a) DoD Instruction 1300.17 of 10 February 2009 (b) BUPERSINST 1730.11A (c) BUMEDINST 6230.15B (d) SECNAVINST 1730.9A (e) SECNAVINST 1920.6D
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1. **Policy.** The Navy requires immunizations for all Sailors, based on its compelling interest in the health and safety of the military workforce. Pursuant to references (a) and (b), religious exemptions of immunization requirements will include the justification and endorsements in paragraphs 4 and 5 of this article prior to routing to the Chief of Naval Personnel (CHNAVPERS) for decision. Non-religious medical waivers of immunization requirements will be adjudicated by the health care provider as addressed in reference (c).

2. **Authority.** Authority to grant medical waivers of immunization requirements is vested at the Bureau of Medicine and Surgery (BUMED). Authority to grant religious exemptions of immunization requirements is vested with CHNAVPERS.

3. **Application Procedure.** Service members requesting religious exemption of immunization requirements will forward their requests to CHNAVPERS via their commanding officers (CO) or immediate superiors in command. Submission guidance for commands is provided in reference (b).

4. **Contents of Service Member's Request.** The request will include the following information:

- a. Full name and grade,

b. Immunization(s) exemption requested and the reason why the exemption is needed, and

c. The following signed [NAVPERS 1070/613](#) Administrative Remarks, using the following format:

"I request a waiver of the (state the type) immunization. I hereby state that my request is based upon (religious objection to immunization or other reasons specifically described). I acknowledge having received the following counseling:

1. Failure to obtain immunization poses additional risk to my health upon exposure to disease.

2. In the event of foreign travel, I may be detained during travel across foreign borders due to international health regulations.

3. If granted, a waiver may be revoked by my commanding officer if I am at imminent risk of disease or due to international health regulations.

4. If my job duties change, I may need to route a new request.

5. If I am at my permanent change of station while my waiver is in effect, I may need to route a new request if my job duties change, my geographic region exposes me to the aforementioned disease, or other factors exist that could put me at imminent risk of disease.

Service Member's Signature

Witnessed:

5. **Content of Commander's Endorsement.** In line with reference (b), COs must endorse every request for religious accommodation through waiver of immunization requirements. The content of the endorsement must include:

a. An endorsement from a military chaplain in line with reference (d),

b. A recommendation to approve or disapprove the request,

c. Relevant information concerning the applicable operational or regional policies,

d. Negative effect (if any) on mission accomplishment (i.e., military readiness, unit cohesion, good order, discipline, health, and safety),

e. The number of Service members in the command that have been granted a similar exemption for non-religious purposes, and

f. When recommending denial of the request, a determination that the denial furthers a compelling governmental interest (such as those identified in subparagraph 5d above), and that there is no less restrictive means of accommodating the request, such as an available alternative vaccination that meets both the religious need and the Navy's immunization requirements as determined by BUMED.

6. **Applicant Counseling.** COs will ensure applicants are counseled concerning the following, in line with subparagraph 4c above:

a. The additional risk to health on exposure to disease against which the applicant will not be protected by a military physician who informs Service member of diseases concerned, and benefits and risks of vaccine;

b. The possibility that the applicant may be detained during travel across international borders due to international health regulations; and

c. The possibility that individuals granted such exemptions may have their waivers revoked if they are at imminent risk of disease (e.g., exposure to anthrax, measles, cholera, etc.) or due to international health regulations.

7. **Revocation of Waiver by CO.** COs may, without prior approval, revoke a Service member's authorized immunization waiver in the event of imminent risk of disease due to exposure or as a result of international health regulations incident to foreign travel. If a Service member's immunization waiver is revoked, such action must be reported to CHNAVPERS and BUMED Public Health and Safety Division (M44) by message as soon as possible.

8. **Administrative and Disciplinary Actions**

a. In line with reference (a), Service members submitting requests for religious accommodations will comply with the

policy, practice, or duty from which they are requesting accommodation, unless or until the request is approved.

b. Service members whose waivers have been disapproved, or those who refuse to take immunizations without approved waivers, may be subject to administrative and or disciplinary actions, as deemed appropriate by COs, for violation of a lawful order.

c. Actions include:

(1) Formal counseling and warning recorded on [NAVPERS 1070/613](#),

(2) Nonjudicial punishment,

(3) Court-martial, or

(4) Processing for administrative separation.

d. See [MILPERSMAN 1910-120](#), [1910-142](#), [1910-164](#), and [1910-402](#) for guidance on enlisted separations. See reference (d) for officer separations.



Office of the Attorney General
Washington, D.C. 20530

October 6, 2017

MEMORANDUM FOR ALL COMPONENT HEADS AND UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL 

SUBJECT: Implementation of Memorandum on Federal Law Protections
for Religious Liberty

The President has instructed me to issue guidance interpreting religious liberty protections in federal law. Exec. Order 13798, § 4 (May 4, 2017). Pursuant to that instruction and consistent with my authority to provide advice and opinions on questions of law to the Executive Branch, I have undertaken a review of the primary sources for federal protection of religious liberty in the United States, along with the case law interpreting such sources. I also convened a series of listening sessions, seeking suggestions regarding the areas of federal protection for religious liberty most in need of clarification or guidance from the Attorney General.

Today, I sent out a memorandum to the heads of all executive departments and agencies summarizing twenty principles of religious liberty and providing an appendix with interpretive guidance of federal-law protections for religious liberty to support those principles. That memorandum and appendix are no less applicable to this Department than to any other agency within the Executive Branch. I therefore direct all attorneys within the Department to adhere to the interpretative guidance set forth in the memorandum and its accompanying appendix.

In particular, I direct the Department of Justice to undertake the following actions:

- All Department components and United States Attorney's Offices shall, effective immediately, incorporate the interpretative guidance in litigation strategy and arguments, operations, grant administration, and all other aspects of the Department's work, keeping in mind the President's declaration that "[i]t shall be the policy of the executive branch to vigorously enforce Federal law's robust protections for religious freedom." Exec. Order 13798, § 1 (May 4, 2017).
- Litigating Divisions and United States Attorney's Offices should also consider, in consultation with the Associate Attorney General, how best to implement the guidance with respect to arguments already made in pending cases where such arguments may be inconsistent with the guidance.
- Department attorneys shall also use the interpretive guidance in formulating opinions and advice for other Executive Branch agencies and shall alert the appropriate officials at such agencies whenever agency policies may conflict with the guidance.
- To aid in the consistent application of the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb *et seq.*, and other federal-law protections for religious liberty, the Office of Legal Policy shall coordinate with the Civil Rights Division to

review every Department rulemaking and every agency action submitted by the Office of Management and Budget for review by this Department for consistency with the interpretive guidance. In particular, the Office of Legal Policy, in consultation with the Civil Rights Division, shall consider whether such rules might impose a substantial burden on the exercise of religion and whether the imposition of that burden would be consistent with the requirements of RFRA. The Department shall not concur in the issuance of any rule that appears to conflict with federal laws governing religious liberty, as set forth in the interpretive guidance.

- In addition, to the extent that existing procedures do not already provide for consultation with the Associate Attorney General, Department components and United States Attorney's Offices shall notify the Associate Attorney General of all issues arising in litigation, operations, grants, or other aspects of the Department's work that appear to raise novel, material questions under RFRA or other religious liberty protections addressed in the interpretive guidance. The Associate Attorney General shall promptly alert the submitting component of any concerns.

Any questions about the interpretive guidance or this memorandum should be addressed to the Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue N.W., Washington, D.C. 20530, phone (202) 514-4601.

Thank you for your time and attention to this important matter.